## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION CIVIL ACTION NO. 5:17-CV-162-DCK

ALEXANDER BEAMON,	)
Plaintiff,	)
V.	) ) <b>ORDER</b>
NANCY A DEDDAMIN I	)
NANCY A. BERRYHILL, Acting Commissioner of Social Security,	)
Defendant.	)
	<i>)</i>

THIS MATTER IS BEFORE THE COURT on "Plaintiff's Motion For Attorney Fees Under § 406(b) Of The Social Security Act" (Document No. 19) filed May 1, 2019. The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and immediate review is appropriate. Having carefully considered the motion, the record, and applicable authority, the undersigned will grant the motion.

Plaintiff has previously been awarded attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$4,500.00. See (Document No. 18). Attorney fees awarded under 42 U.S.C. § 406(b) may not exceed 25% of the total of the claimant's past due benefits. It appears that the Social Security Administration determined that Plaintiff's past due benefits are \$59,292.00, and thus withheld \$14,823 for Plaintiff's representative's fees. (Document No. 19-2, pp. 3-4).

By the instant motion, Plaintiff seeks an award in the amount of eight thousand eight hundred twenty-three dollars (\$8,823.00) for 23.75 hours of work on this case. (Document No. 19); see also (Document No. 17-1).

"Defendant's Response..." states that "Defendant neither supports nor opposes Plaintiff's

counsel's request for attorney fees." (Document No. 20). Defendant notes that it is for the Court

to decide if the request for attorney fees under 42 U.S.C. § 406(b) is reasonable under the law. Id.

(citing Gisbrecht v. Barnhart, 535 U.S. 789, 809 (2002)). Defendant further notes that the Fourth

Circuit considers "the following factors relevant to the district court's reasonableness inquiry: the

overall complexity of the case, the lawyering skills necessary to handle it effectively, the risks

involved, and the significance of the result achieved in district court. (Document No. 20, p. 1)

(citing Mudd v. Barnhart, 418 F.3d 424, 428 (4th Cir. 2005)).

Although Plaintiff's motion fails to include a memorandum, or to otherwise address the

reasonableness of the request, the undersigned will allow the requested relief this time.

IT IS, THEREFORE, ORDERED that "Plaintiff's Motion For Attorney Fees Under §

406(b) Of The Social Security Act" (Document No. 19) is **GRANTED**. Plaintiff's counsel shall

be awarded fees under 42 U.S.C. § 406(b) in the amount of eight thousand eight hundred twenty-

three dollars (\$8,823.00) from Plaintiff's back benefits; and Plaintiff's counsel shall pay to

Plaintiff four thousand five hundred dollars (\$4,500.00).

SO ORDERED.

Signed: May 24, 2019

David C. Keesler

United States Magistrate Judge

2